

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THOMAS GESUALDI, LOUIS BISIGNANO,  
DARIN JEFFERS, MICHAEL O'TOOLE,  
MICHAEL BOURGAL, FRANK H. FINKEL,  
JOSEPH A. FERRARA, SR., MARC HERBST,  
THOMAS CORBETT, and ROBERT G. WESSELS,  
as Trustees and Fiduciaries  
of the Local 282 Pension Trust Fund,

Plaintiffs,

-against-

ADOPTION ORDER  
19-CV-5606(JS) (AYS)

TADCO CONSTRUCTION CORP.,  
JOHN AND JANE DOES 1 THROUGH 10, and  
XYZ ENTITIES 1 THROUGH 10, all whose true  
names are unknown, constituting control  
group(s) or alter ego/single employer(s)  
business entities or individuals of  
TADCO CONSTRUCTION CORP.,

Defendants.

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APPEARANCES

For Plaintiffs: Arthur Joseph Muller, Esq.  
Trivella & Forte LLP  
1311 Mamaroneck Avenue, Suite 170  
White Plains, New York 10605

For Defendants: No appearances.

SEYBERT, District Judge:

Plaintiffs Thomas Gesualdi, Louis Bisignano, Darin  
Jeffers, Michael O'Toole, Michael Bourgal, Frank H. Finkel, Joseph  
A. Ferrara, Sr., Marc Herbst, Thomas Corbett, and Robert G.  
Wessels, as Trustees and Fiduciaries of the Local 282 Pension Trust  
Fund ("Plaintiffs"), commenced this action against Tadco  
Construction Corp. ("Tadco"), among other Jane and John Doe

defendants, pursuant to Sections 502 and 515 of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1132, as amended, to collect \$94,170.00 in unpaid withdrawal liability plus interest and costs. (See Compl., ECF No. 1.) On August 31, 2020, Plaintiffs filed a motion for a default judgment against Defendants (Mot., ECF No. 9) and on September 1, 2020, this Court referred the motion to Magistrate Judge Anne Y. Shields for a report and recommendation (Sept. 1 2020 Elec. Order).

On January 5, 2021, Judge Shields issued a Report and Recommendation ("R&R") recommending that the Court grant Plaintiffs' motion and award Plaintiffs: (1) \$94,170.00 in unpaid withdrawal liability; (2) interest, through the date of the R&R, in the amount of \$121,765.68, with additional interest to be calculated at a rate of \$46.44 per day through the date of judgment; (3) liquidated damages equal to the amount of interest awarded; (4) attorney's fees in the amount of \$5,053.50; and, (5) \$735.50 in costs. (R&R, ECF No. 14, at 10.) On January 6, 2021, Plaintiffs served the R&R to Defendant Tadco at its last known addresses. (Aff. Serv., ECF No. 15.)

The time to object has expired and no objections to the R&R have been filed. Upon careful review and consideration, the Court finds Judge Shields' R&R to be comprehensive, well-reasoned, and free of clear error. Accordingly, the Court ADOPTS the R&R (ECF No. 14) in its entirety and Plaintiffs' motion for a default

judgment (ECF No. 9) is GRANTED as against defendant Tadco Construction Corp. The claims against John and Jane Does 1 through 10 and XYZ Entities 1 through 10 are DISMISSED without prejudice. Plaintiffs are awarded (1) \$94,170.00 in unpaid withdrawal liability; (2) interest in the amount of \$121,765.68, with additional interest in the amount of \$975.24 (calculated at \$46.44 per day from the date of the R&R through the date of this Order); (3) liquidated damages in the amount of \$122,740.92 (the amount of interest awarded herein); (4) attorney's fees in the amount of \$5,053.50; and (5) \$735.50 in costs.

The Clerk of the Court is respectfully directed to enter judgment accordingly and mark this case CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: January 26, 2021  
Central Islip, New York